

ORDER NO. 1419

UNITED STATES OF AMERICA
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Before Commissioners:

Ruth Y. Goldway, Chairman;
Nanci E. Langley, Vice Chairman;
Mark Acton;
Tony Hammond; and
Robert G. Taub

Competitive Product Prices
First-Class Package Service
First-Class Package Service Contract 10

Docket No. MC2012-35

Competitive Product Prices
First-Class Package Service Contract 10
(MC2012-35)
Negotiated Service Agreement

Docket No. CP2012-43

ORDER ADDING FIRST-CLASS PACKAGE SERVICE CONTRACT 10
TO THE COMPETITIVE PRODUCT LIST

(Issued July 31, 2012)

I. INTRODUCTION

The Postal Service seeks to add a new product identified as First-Class Package Service Contract 10 to the competitive product list.¹ For the reasons discussed below, the Commission approves the Request.

¹ Request of the United States Postal Service to Add First-Class Package Service Contract 10 to Competitive Product List and Notice of Filing (Under Seal) of Unredacted Governors' Decision, Contract, and Supporting Data, July 19, 2012 (Request).

II. BACKGROUND

On July 19, 2012, in accordance with 39 U.S.C. § 3642 and 39 CFR 3020.30 *et seq.*, the Postal Service filed the Request, along with supporting documents. In the Request, the Postal Service asserts that First-Class Package Service Contract 10 is a competitive product, and one that is “not of general applicability” within the meaning of 39 U.S.C. § 3632(b)(3). Request at 1. The Postal Service further asserts that the prices and classification underlying the contract are supported by Governors’ Decision No. 11-6.² Among the supporting documents, the Postal Service included a statement supporting the Request, a certification of compliance with 39 U.S.C. § 3633(a), a copy of Governors’ Decision No. 11-6, and a contract related to the proposed new product. In addition, the Postal Service submitted an application for non-public treatment of materials to maintain redacted portions of the contract, customer-identifying information, and related financial information filed under seal. Request, Attachment F.

On July 20, 2012, the Commission issued an order establishing the two dockets, appointed a Public Representative, and provided interested persons with an opportunity to comment.³

III. COMMENTS

The Public Representative filed comments on July 27, 2012.⁴ No other interested person submitted comments. The Public Representative concludes that the First-Class Package Service Contract 10 satisfies the criteria of section 3642(b), concerning the classification of new competitive products, and complies with the

² Decision of the Governors of the United States Postal Service on the Establishment of Prices and Classifications for Domestic Competitive Agreements, Outbound International Competitive Agreements, Inbound International Competitive Agreements, and other Non-Published Competitive Rates, March 22, 2011 (Governors’ Decision No. 11-6).

³ Order No. 1412, Notice and Order Concerning Addition of First-Class Package Service Contract 10 to the Competitive Product List, July 20, 2012.

⁴ Public Representative Comments, July 27, 2012 (PR Comments).

requirements of section 3633(a), concerning rates for competitive products. PR Comments at 1-2. She therefore states that First-Class Package Service Contract 10 appears to comport with relevant provisions of title 39. *Id.* at 2.

IV. COMMISSION ANALYSIS

The Commission has reviewed the Request, the instant contract, the supporting data filed under seal, and the Public Representative's comments.

Product list requirements. The Commission's statutory responsibilities when evaluating the Request entail assigning First-Class Package Service Contract 10 to either the market dominant or competitive product list. See 39 U.S.C. § 3642(b)(1); 39 CFR 3020.30(d). In addition, the Commission must consider the availability and use of private sector enterprises engaged in delivering the product, the views of those who use the product, and the likely impact on small business concerns. See 39 U.S.C. § 3642(b)(3); 39 CFR 3020.30(f), (g), and (h).

The Postal Service asserts that it provides First-Class Package Service in a highly competitive market, that other shippers who provide similar services constrain its bargaining position, and that it can therefore neither raise prices nor decrease service, quality, or output without risking the loss of business to competitors. Request, Attachment D at 2. The Postal Service affirms that the contract partner supports the Request, that expedited shipping is widely available from private firms, and that it is unaware of any small business concerns that could offer comparable services to the contract partner. *Id.* at 3.

Having considered the relevant statutory and regulatory requirements and the Postal Service's supporting justification, the Commission finds that First-Class Package Service Contract 10 is appropriately classified as competitive and added to the competitive product list.

Cost considerations. Because First-Class Package Service Contract 10 is a competitive product, the Postal Service must also show that the contract covers its

attributable costs, contributes to the Postal Service's institutional costs, and does not cause any market dominant products to subsidize competitive products. 39 U.S.C. §§ 3632(b)(3), 3633(a), and 39 CFR 3015.5.

The Postal Service has submitted a certified statement, along with supporting revenue and cost data, which demonstrates that the instant contract satisfies the statutory and regulatory requirements. The Public Representative concurs. PR Comments at 1-2. The Commission finds that First-Class Package Service Contract 10 complies with the provisions applicable to rates for competitive products.

Other considerations. By its terms, the contract becomes effective on the day on which the Commission issues all necessary regulatory approvals. Request, Attachment B at 3. It expires three years from the effective date unless, among other things, either party terminates the agreement with 30 days' written notice to the other party. *Id.*

If the instant contract is terminated prior to the scheduled expiration date, the Postal Service shall promptly notify the Commission.

Within 30 days after the instant contract terminates, the Postal Service shall file the annual (contract year) costs, volumes, and revenues disaggregated by rate category associated with the contract.

In conclusion, the Commission approves First-Class Package Service Contract 10 as a new product. The revision to the competitive product list appears below the signature of this Order and is effective immediately.

It is ordered:

1. First-Class Package Service Contract 10 (MC2012-35 and CP2012-43) is added to the competitive product list as a new product under Negotiated Service Agreements, Domestic. The revision to the competitive product list appears below the signature of this Order and is effective immediately.

2. The Postal Service shall notify the Commission if the instant contract ends prior to the scheduled expiration date as discussed in this Order.
3. Within 30 days after the instant contract terminates, the Postal Service shall file the annual (contract year) costs, volumes, and revenues disaggregated by rate category associated with the Agreement.
4. The Secretary shall arrange for publication in the *Federal Register* of an updated product list reflecting the change made in this Order.

By the Commission.

Shoshana M. Grove
Secretary

CHANGE IN MAIL CLASSIFICATION SCHEDULE
CHANGE IN PRODUCT LIST

The following material represents changes to the product list codified at 39 CFR Appendix to Subpart A of Part 3020—Mail Classification Schedule. These changes are in response to Docket Nos. MC2012-35 and CP2012-43. The underlined text signifies that the text is new, and shall appear in addition to all other Mail Classification Schedule text.

Part B—Competitive Products

2000 Competitive Product List

Negotiated Service Agreements

Domestic

First-Class Package Service Contract 10 (MC2012-35 and CP2012-43)
